



# The Church of Jesus Christ of Latter-day Saints Danish Probate Records: 1683-Present

Class Handout: Advanced

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In genealogical times, Denmark has had many different types of taxes and, if properly understood, they can be used by the genealogist to prove relationships and extend family lines. Of particular interest to the genealogist are the extra tax as well as the consumption, family, and domestic servant taxes. These records are particularly useful 1671-1711 and can be used to help break down brick walls.

## **Structure of a Probate:**

Probates can be difficult to read but all of them follow the same structure as follows:

**Preamble:** Genealogical Information

**List of Assets:** Everything your ancestor owned

**List of Debts:** Everyone your ancestor owed money to

**Division:** The amount given to each heir

The main genealogical information will be in the preamble which lists the deceased the names of his or heirs as well as the relationship to those heirs. All minor heirs will need a guardian appointed. This guardian is often a family member and his relationship to the children will be given. Next, the list of assets will state everything the ancestor owned and its value. This section is interesting but often difficult to read and not necessary for determining the correct relationships. After the total value of the assets is determined, next will be a list of people the deceased owed money to and the amount owed. This section is also genealogically useful as some of these people may be family members. Finally, the division will be done and the amount owed to each heir will be given. This section can be used to make sure the preamble was interpreted correctly, by making sure each heir is given the correct amount.

## **The Danish Civil Code of 1683**

The Danish Civil Code of 1683 was a complete legal reform that affected all aspects of the law. The entire code is available online in Danish at the following website: <http://bjoerna.dk/DL-1683-internet.pdf> and 80% of it (Book 2 is skipped) is available in English and the Family History Library has a copy. The call number is 948.9 P3c. The law is divided into five books which are then divided into chapters and verses. The probate law is Book 5 chapter II and the law on guardians is Book III chapter XVII. Some of the most important verses from these two laws are as follows:

### **Book V Chapter II**

#### Verse 1

- A probate is to be done when anyone dies, either without Heirs, or whose Heirs are Minors, or absent or Foreigners... (a minor is any man under the age of 25 and any girl who has never married)

#### Verses 4-12

- If the heirs live on the spot a probate should be done in 30 days
- If the heirs are distant but within the province, 42 days
- If the heirs are distant and out of the province 84 days
- If the heirs are out of the kingdom 1 year 6 weeks
- If someone is so far out of the kingdom that they cannot come, the next of kin may do so
- A pregnant woman may wait until she has given birth before a probate is done for her husband so that the baby may also inherit

#### Verse 13

- No Widower or Widow shall marry again, until the Effect of the Consort deceased are legally divided, among the Heirs or Children who are to inherit

#### Verse 28

- An Inheritance always descends, as long as there remain any Descendants, nor can it go to Parents or Ascendants while there are Children, or their Descendants

#### Verse 29

- In all Successions a Male Heir shall have double what a Female has

#### Verses 30-51

The order of succession to an inheritance is as follows:

1. Descendants
2. Father
3. Mother, Siblings, Half-siblings
4. Descendants of the above
5. All 4 Grandparents
6. All 8 Great Grandparents & all other progenitors by rising degrees
7. Aunts and Uncles
8. Descendants of Aunts and Uncles
9. Great Aunts and Uncles
10. Descendants of Great Aunts and Uncles
11. Descendants of Great Aunts and Uncles
12. Great Great Aunts and Uncles
13. Descendants of Great Great Aunts and Uncles
14. Etc. Up to 7 Degrees
15. The King

#### Book III Chapter XVII

#### Verse 2

The preference for the guardian is as follows:

- On the death of the mother, the father is the lawful Guardian of the Children:
- On the death of the father, the children's oldest full brother
- If only half-brothers on the mother's side exist, the nearest of kin on the father's side
- The father's father
- The mother's father
- The father's brother if any
- The mother's brother
- The nearest of kin on the father's side
- The nearest of kin on the mother's side

Verse 3

- No one shall be burdened with more than three guardianships

Verse 8

- No one younger than 25 can be a guardian

Verse 9

- The stepfather cannot be the guardian to his stepchildren without consent of the magistrate

Verse 10

- No bastard shall be a Guardian to a legitimate child

Verse 11

- A man cannot be a guardian to the woman he is engaged to

**Changes to the Law:**

- 13 May 1769 Freeholders may now choose who inherits their real estate
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- 22 November 1837 Freeholders must now obtain consent from their spouse in choosing who gets to inherit their estate.
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- 31 May 1845 women now get equal portions of the estate with the men, the surviving spouse is entitled to half of everything and may choose what specifically constitutes their half. Additionally, the order of succession is simplified:
  - Descendants
  - Parents
  - Descendants of Parents
  - Descendants of Grandparents
- 31 May 1963
  - Adoptees can now inherit
  - Illegitimate children born after 1 January 1938 can now inherit from their fathers
  - If there is a surviving spouse and descendants, the spouse gets 1/3
  - If there is a surviving spouse and no descendants, the spouse gets everything

**Finding the Right Jurisdiction:**

- One of the most difficult and frustrating aspects of Danish probate research is finding the right jurisdiction. The correct jurisdiction will depend on your ancestor's social class:
- Tenants of Noblemen: Gods/Grevskab
- Tenants of the Crown: Amtstue
- Tenants of a Calvary District: Rytterdistrikt
- Clergy: Provsti (Early-1808), Herred (1808-)
- Freeholders: Amt (Early-1793), Herred (1793-Present)
- City People: Købstad
- Copenhagen before 1771
  - Byretten: Common Citizens
  - Hofretten: Higher Civil Servants
  - Borgretten: Lower Civil Servants
  - Universitetets: Professors, Students, and others with connections to the University

- Gejstlige: Members of the Clergy
- Militære: Military and Navy Officials
- Frederiks Hospital: Hospital Officials
- Vajsenhusets: Orphanage Officials
- Asiatiske og Vestindisk-Guineiske Kompagnis: Officials of the Asian and West Indian Trading Company
- Jødernes: Members of the Jewish faith
- Copenhagen 1771-1860
  - Higher Civil Servants and Commissioned Officers
  - Other Civil Servants
  - Clergy, professors, students, hospital workers
  - Wealthy Merchants
  - Artisans, tradesmen, journeymen, apprentices
  - Persons of no means
  - Servants
  - Navy soldiers and merchant marines
  - Army soldiers
- Copenhagen 1860-
  - Higher Civil Servants and Commissioned Officers
  - Other Civil Servants Clergy, professors, students, hospital workers
  - Wealthy Merchants Servants, Navy soldiers and merchant marines, Army soldiers
  - Artisans, tradesmen, journeymen, apprentices
  - Persons of no means

For more information on Copenhagen probate records see "Research in Copenhagen" by A. Boyd Nielsen <https://www.familysearch.org/ask/learningViewer/926>

### **Online Resources:**

A few genealogical enthusiasts are indexing many of the Danish probate records and publishing them online for free. These tools may help you to find your ancestor in a probate you would not have known to look in otherwise

- [www.kkermit.dk/godsarkiver](http://www.kkermit.dk/godsarkiver)
- [www.brejl.dk](http://www.brejl.dk)
- [www.aurelia-clemons.dk](http://www.aurelia-clemons.dk)
- [www.wadsschier.dk/kilder](http://www.wadsschier.dk/kilder)
- [www.jens-eigild.dk/gods](http://www.jens-eigild.dk/gods)
- [https://hammerum-herred.dk/viewpage.php?page\\_id=70](https://hammerum-herred.dk/viewpage.php?page_id=70)

For more information see *Slægtsforskning i ældre kilder* by Jørgen Markvad. This book is available at the Family History Library. Call number 948.9 D27ma